

Application No.: 10/063,559

REMARKS

Applicants wish to thank the Examiner for the personal interview conducted on 6/22/2005, where agreement was not reached with respect to patentable claims over the prior art of record. The interview was conducted in person and attended by Examiner Carolyn L. Smith, and Applicants' representative William R. McCarthy III. The subject matter of the interview included discussion of some proposed claim amendments which were faxed to the Examiner prior to the interview. In particular, the probe-set identifier limitations of independent claim 19 were discussed with respect to the disclosure of Maslyn et al. U.S. Patent Serial No. 6,408,308. Applicants would like to state that the interview was found to be very helpful in advancing the prosecution of the present application.

Upon entry of this response, claims 19, 49-51, 64-65, and 67-72 are pending, and of these claims 19, 49, and 72 are independent. Upon entry of the present response, claims 61-62 are cancelled and claims 67-72 are new the support for which may be found in the description of the present application at:

claim 67, paragraph 0091 *et seq.*;

claim 68, paragraph 0090 *et seq.*;

claim 69, paragraph 0090 *et seq.*;

claim 70, paragraph 0090 *et seq.*;

claim 71, paragraph 0091 *et seq.*; and

claim 72, claim 19 and paragraph 0084 *et seq.*

Application No.: 10/063,559

Applicants have amended the title of the application by removing the term "Computer Software". Additionally, Applicants have amended claim 49 to remove the term "includes" with respect to the Gene or EST data limitation; and claims 51, 64-65 to replace the term "comprises" with "comprise" in regard to the protein family data limitation, where each of the amendments to claims 49, 51, and 64-65 has been made for linguistic reasons and are not related to patentability.

Applicants have amended claims 19, and 49 to include the limitation of a probe-set identifier that is a name assigned by a probe array manufacturer that specifies the identity of a probe-set, the support for which may be found in paragraph 0056 *et seq.* of the specification. Additionally, Applicants have amended claims 19 and 49 to include the limitation of correlating each probe set identifier with a protein sequence, the support for which may be found in paragraph 0089 *et seq.* of the specification, and further correlating the protein sequence with protein family data, the support for which may be found in paragraph 0090 *et seq.* of the specification.

Applicants assert that no new matter is presented by these amendments and respectfully request entry of the same.

Reply to Claim Rejections – 35 U.S.C. §112

Claims 19, 61-62, and 64-65 are rejected under 35 U.S.C. §112.

As the Examiner suggested, Applicants have amended claim 19 to remove the terms "of the" in reference to the probe-set identifier limitation, where Applicants respectfully assert that the claim as amended properly complies with

Application No.: 10/063,559

the antecedent basis requirement with respect to the probe-set identifiers limitation.

Therefore, Applicants respectfully assert that claim 19 as amended particularly points and out and distinctly claims the subject matter of the invention, and is thus patentable. Additionally, Applicants assert that each of claims 64-65 (claims 61-62 are cancelled) each depend from claim 19 and are thus also patentable for the same reasons.

Reply to Claim Rejections – 35 U.S.C. §102(e)

Claims 19, 49-51, and 61-66 are rejected under 35 U.S.C. §102(e) over Maslyn et al. (US Patent Serial No. 6,408,308). Maslyn et al. is generally directed to a system for processing and storing normalized biomolecular data from microarray experiments.

Applicants respectfully assert that claims 19 and 49 as amended are not anticipated Maslyn et al. In particular claims 19 and 49 as amended recite the limitations that each probe-set identifier is a name assigned by a probe array manufacturer that specifies the identity of a probe-set. Maslyn et al. does not include description of a probe array manufacturer assigned name that specifies the identity of a probe-set, rather Maslyn et al. describes a manufacturer provided identification of sites on a microarray that have probes that correspond to a particular transcript and further describes providing data on the transcripts (column 4, lines 49-52 of Maslyn et al.).

Application No.: 10/063,559

Applicants respectfully assert that the manufacturer provided identification of sites with probes that correspond to transcripts as described by Maslyn et al. is not the same as a probe array manufacturer assigned name that specifies the identity of a probe-set as claimed. For example, Maslyn et al. describes the identification of sites on a microarray that indicates the identification of a spatial arrangement of the probes on the microarray substrate. Maslyn et al. does not describe the spatial arrangement or identification of sites to include a name that specifies the identity of a probe-set assigned by a manufacturer as claimed. Also in the present example, Maslyn et al. describes the identified sites having probes that correspond to transcripts. Maslyn et al. is not clear as to the nature of how the transcripts correspond to the probes but the term "transcript" in this context generally refers to RNA produced by transcription from a DNA template. Applicants respectfully assert that an RNA transcript is different than a name that specifies the identity of a probe-set and further there is no description in Maslyn et al. of a manufacturer assigning a transcript as a name that specifies the identity of a probe-set.

Maslyn et al. also describes microarray design files comprising microarray layout data for correlating the "elements" on the array with the probe design (col. 6, line 22 et seq. of Maslyn et al.). Maslyn et al. does not specifically describe the nature of the correlation between the elements and probe design, such as for instance how each element is correlated with the probe design information in the microarray layout data. Applicants respectfully assert that there is no description of a name assigned by a manufacturer that specifies the identity of a probe-set

Application No.: 10/063,559

with respect to the microarray layout data and microarray design data files as described by Maslyn et al.

In addition, Applicants respectfully assert that Maslyn et al. does not describe correlating a probe set identifier comprising a name assigned by a probe array manufacturer that specifies the identity of a probe-set with a protein sequence. As described above, Applicants respectfully assert that Maslyn et al. does not describe a probe-set identifier that is a name assigned by a probe array manufacturer that specifies the identity of a probe-set and therefore Maslyn et al. cannot describe correlating that name with any other type of data and specifically does not describe a correlation with a protein sequence.

Therefore, Applicants respectfully assert that Maslyn et al. does not teach the combination of elements of independent claims 19 and 49 as amended, and are thus each patentable for the reasons given above. Also, each of claims 50-51, and 64-65 (claims 61-62 are cancelled) each depend from claims 19 or 49 and thus patentable for the same reasons.

CONCLUSION

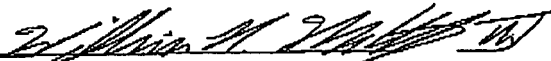
For these reasons, Applicants believe all pending claims are now in condition for allowance. If the Examiner has any questions pertaining to this application or feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at (781) 280-1522.

Application No.: 10/063,559

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account 01-0431.

Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

By 

William R. McCarthy III Reg. No.: 55,788

Customer No.: 22886
Legal Department
Affymetrix, Inc.
3380 Central Expressway
Santa Clara, CA 95051
Tel: 781/280-1522
Fax: 781/687-9090